

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5667 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 Yes 2 to 5 No

PHILIPS INDIA LIMITED

Versus

STATE OF GUJARAT

Appearance:

MR. MIHIR THAKORE, SR. ADVOCATE WITH M/S. SINGHI &
BUCH ASSO. for Petitioners
MR. S.R. DIVETIA, A.G.P. for respondent No. 1, 3,
and 6
MR BM GUPTA for Respondent No. 2

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 09/10/97

ORAL JUDGEMENT

Rule. The learned counsel for the respondents waive service of rule and request for immediate hearing of the matter.

The petitioners seek to challenge the order dated 31.12.1996 at Annexure-E to the petition passed by the Revisional authority in Revision Application No. 275 of 1993 rejecting the Revision Application of the petitioners and confirming the order dated 13.4.1993 of the District Collector confiscating the electric bulbs on the ground that they did not comply with the ISI standards and therefore there was infringement of the General Service Electric Lamps (Quality Control) Order. According to the petitioners the ISI standards prescribed for ordinary incandescent lamps for general lighting purpose (IS 418-1978) were not applicable to the said product of the petitioners because they are not ordinary incandescent lamps for general lighting purpose but are lamps of special type since they are decorative lamps. It is the petitioners' case that a clarificatory amendment was made in IS-418-1978 specification by Amendment No. 7 of January, 1994, the effect of which {clause 1.1(f)} is that the said ISI standard was not applicable to the ordinary incandescent lamps which had glass shell diameter of less than 59 mm. According to the petitioner the glass shell diameter of their 15 watt lamp is only 45 mm. While the arguments were in progress it transpired that the Revisional Authority had not taken into consideration the effect of the Amendment No. 7 of January 1994. The stand of the respondents is that this Amendment cannot have a retrospective effect while according to the petitioner it is only a clarificatory amendment. The question whether this amendment was clarificatory only or retrospective or whether it had the effect of saving these goods at this belated stage, depend upon the consideration of the said amendment. Since the Revisional Authority had not considered this amendment which had already come into force before it had decided the Revision Application, it is felt by consensus that the Revisional Authority should consider the impact of this amendment and take a fresh decision in the matter. Accordingly, it is directed that the Revisional Authority will reconsider the matter in light of the said amendment No. 7 of January 1994 in IS-418-1978-Specification for tungsten filament general service electric lamps clause (1), and take a fresh decision in the matter after hearing all the concerned parties including Bureau of Indian Standard which should be impleaded as a party respondent there. The muddamal goods will not be disposed of subject to the order that may be made by the State Government. Rule is made absolute accordingly with no order as to costs.